

REMARKS

Claims 1-18, 21 and 22 are currently pending in this application. Claims 19 and 20 have been canceled. Claims 1, 14, 17, 18 and 21 have been amended. New claim 22 has been added. No new matter has been added by these amendments or additions. Applicants have carefully reviewed the Office Action and respectfully request reconsideration of the claims in view of the remarks presented below.

Election/Restrictions

Claims 1-18, 20 and 21 were identified as being drawn to an implantable pacemaker/defibrillator device while claim 19 was identified as being drawn to a method of installing an implantable medical device. Based on a telephonic provisional election, claim 19 was withdrawn from further consideration as being drawn to a non-elected invention. Applicants affirm their provisional invention and accordingly, have canceled claim 19.

Claim Objections

Claims 14 and 21 were objected to because of typographical errors. As indicated in the "Amendments to the Claims" section above, these errors have been corrected.

Claim Rejections Under 35 U.S.C. §103

Claims 1-6, 8, 10, 11, 14-18, 20 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,044,295 (Pilz) in view of U.S. Patent No. 5,558,962 (Marincic).

Pilz discloses an implantable medical device that includes two batteries. Both batteries are electrically coupled to control circuitry such that if the one battery that normally powers the control circuitry experiences a voltage drop, the other battery begins to power the control circuitry. See figure 1 and column 6, lines 46-56. Marincic discloses an electrochemical cell.

Applicants' claim 1 is distinct from Pilz in that it includes two separate batteries that serve two separate purposes, independent of each other. More specifically, claim 1 includes a first power source employing polycarbon monofluoride (CFx) to provide power for the pacing pulse generation circuitry; and a second power source permanently electrically decoupled from the pacing pulse generator and employing lithium manganese dioxide (LiMnO₂) to provide power only for the defibrillation shock generation circuitry.

Applicants' claims 17, 18 and 21 are distinct over Pilz for the same reason.

In view of the foregoing, Applicant submits that Pilz and Marincic do not teach or suggest the combination of elements and features recited in independent claims 1, 17, 18 and 21. Accordingly, Applicants request reconsideration of the §103 rejection of these claims and there respective dependent claims.

Claims 7 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Pilz in view of Marincic and further in view of U.S. Patent Publication No. 2004/0243183 (Norton). Claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over Pilz in view of Marincic and further in view of U.S. Patent No. 4,796,630 (Regna).

In view of the foregoing analysis of independent claim 1 in view of Pilz and the combination of Pilz and Norton, Applicants believe that the rejections of claims 7, 9 and 12 under §103 are rendered moot as each of these dependent claims depend from allowable independent claim 1.

Double Patenting

Claims 1 and 2 were provisionally rejected under the judicially created doctrine of double patenting over claims 1 and 8 of copending application serial no. 10/761,907.

Applicant herein submits a Terminal Disclaimer disclaiming the terminal part of the statutory term of any patent granted on the present application, which would extend beyond the expiration date of the full statutory term of any patent issuing from co-

pending application serial no. 10/761,907. In view of the Terminal Disclaimer and the preceding remarks, it is respectfully submitted that claims 1 and 2 are in condition for allowance.

Allowable Subject Matter

Claim 13 was objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims. In view of the remarks presented above with respect to the rejection of independent claim 1, Applicants believe claim 13 is allowable without amendment. However, see the below remarks regarding new claim 22.

New Claim 22

New claim 22 is claim 13 rewritten in independent form including all of the limitations of its base claim and intervening claims. This claim is believed to be allowable.

CONCLUSION

Applicants have made an earnest and bona fide effort to clarify the issues before the Examiner and to place this case in condition for allowance. Therefore, allowance of Applicants' claims 1-18, 21 and 22 is believed to be in order.

Respectfully submitted,

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Date



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